

EXHIBIT 9 a

To

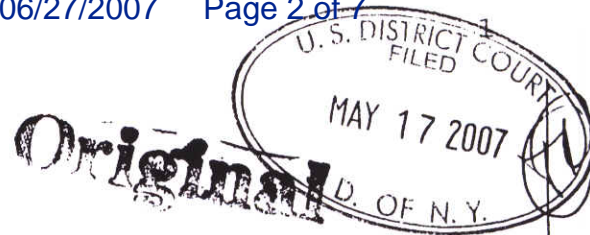
25 June 2007

Affidavit of Bias

Pursuant to 28 USC § 144

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: SKI TRAIN FIRE
IN KAPRUN, AUSTRIA

CASE NO.
01 MDL 1428 (SAS)
06 CV. 1657 (SAS)

New York, N.Y.
April 25, 2007
11:45 a.m.

Before:

HON. SHIRA A. SCHEINDLIN,

DOC #

District Judge

APPEARANCES

NAGEL, RICE & MAZIE
Attorneys for American Plaintiffs
BY: JAY J. RICE

SPEISER KRAUSE
Attorneys for American Plaintiffs
BY: CHRISTINA FRY

EDWARD D. FAGAN
Liaison Counsel to Class Plaintiffs

FLORIDA LAW GROUP, L.L.C.
Attorneys for Plaintiffs
BY: JAMES F. LOWY

HANTMAN & ASSOCIATES
Attorneys for Plaintiffs
BY: ROBERT J. HANTMAN

REED, SMITH, LLP
Attorneys for Defendant
Bosch Rexroth Corporation
BY: PAUL P. ROONEY

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1 MR. FAGAN: They did, your Honor.

2 THE COURT: All right.

3 MR. FAGAN: Those two people testified at the criminal
4 trial in Austria.

5 THE COURT: Right.

6 MR. FAGAN: However, at the time they testified at the
7 criminal trial in Austria they did not provide the information
8 that they were going to come in and provide in these
9 depositions. They -- we were afraid of that exact reason of
10 the potential intimidation. On the video I specifically asked
11 Mr -- the first.

12 THE COURT: Schwartz.

13 MR. FAGAN: -- Mr. Schwartz, whether he was afraid and
14 he wanted me to ask the Court to keep his identity
15 confidential.

16 When he said yes to that, in the December 28th video,
17 that's why I came into this court and asked the Court for
18 protection. That's in a video; his specific statement about
19 that.

20 In addition, your Honor, what then happened from
21 December 28th, the next thing that happens is at the end of
22 February before there has ever been a deposition notice
23 scheduled, that witness and his lawyer are called by two
24 different people to attempt to prevent them from testifying.
25 That's a fact. It can be produced for the Court.

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1 And, in addition -- and that's one of the very reasons
2 why we wanted to keep it confidential, because we wanted the
3 witnesses to be able to come in and testify truthfully without
4 coercion or pressure. That's in February. That was -- the
5 phone calls were made -- this isn't me. Mr. Lowy heard that
6 also from the whistle -- the first -- Mr. Schwartz' lawyer and
7 from Mr. Schwartz. Mr. Lowy was there when we were speaking to
8 Mr. Schwartz on April the 11th. And, he also had an
9 opportunity to see what Mr. Schwartz was going through not from
10 the February 28th phone call or the end of February phone
11 calls, but the phone calls that were made on April the 7th,
12 2007, right after the Court directed me to disclose the
13 identity and the statement including the declaration of what he
14 would testify to.

15 He got two phone calls that morning. He got a phone
16 call from a -- from Dr. Stieldorf -- the lawyer got another
17 cone fall Dr. Stieldorf, the witness got a phone call from one
18 of Dr. Stieldorf's clients.

19 THE COURT: Dr. Stieldorf doesn't work with the
20 defense, does he?

21 MR. FAGAN: Yes, he does, your Honor.

22 THE COURT: Oh, he does. In what way does he work for
23 the defendant? Which defendant employs him to do what?

24 MR. FAGAN: Your Honor, he is part of a group in
25 Austria. This is confirmed by the affidavit or declarations of

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1 Dr. Geier.

2 THE COURT: Part of a group to do what?

3 MR. FAGAN: Part of a group to destroy the cases in
4 the United States.

5 THE COURT: I'm sorry, Mr. Fagan. You sound like you
6 are hallucinating.

7 MR. FAGAN: No, ma'am.

8 THE COURT: Excuse me. I will now speak, you will
9 not.

10 Apparently he represents some plaintiffs. Apparently
11 he would like to settle the cases. Apparently he has got some
12 offers in the range of \$20 million. Apparently that offer is
13 not satisfactory to you and doesn't pay you enough but it has
14 nothing to do with the defendants.

15 MR. FAGAN: Your Honor --

16 THE COURT: He may be competing with you. He may have
17 plaintiffs of his own. He may wish to settle those cases for
18 \$20 million. He may wish to give you a hundred thousand
19 dollars or less in fees. But, what has that got to do with
20 these defendants? He may even have tried to discourage these
21 witnesses from testifying because he wants to wrap the case up,
22 but I would like to know which of the defendants employed
23 Dr. Stieldorf to do what.

24 MR. FAGAN: Your Honor, Dr. Stieldorf is working
25 together with GBK.

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1 THE COURT: Is anybody here for GBK today?

2 MS. VALLETTA: Yes, your Honor. I am.

3 THE COURT: Okay. Go ahead. He is working together
4 with GBK.

5 MR. FAGAN: He is working together with Generali.

6 THE COURT: Generali, anybody here for that?

7 MR. FAGAN: No, your Honor.

8 THE COURT: Go ahead.

9 MR. FAGAN: He is working together with the Republic
10 of Austria.

11 THE COURT: Anybody here for that entity today? No.
12 Go ahead.

13 MR. FAGAN: The witnesses --

14 THE COURT: And I don't know what it means 'working
15 together.'.

16 In cases in this courtroom plaintiffs and defendants
17 work together all the time -- so called, 'work together' -- to
18 settle cases. That doesn't mean that they are working together
19 in some kind of a conspiracy against other people.

20 MR. FAGAN: Your Honor, but --

21 THE COURT: In many of my cases plaintiffs and
22 defendants work well together. It is called working together.

23 MR. FAGAN: Yes, your Honor.

24 THE COURT: They sit in a room together with or
25 without a mediator, they discuss the case, they try to settle

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1 the case. Sometimes they actually reach a settlement. That
2 does not make them co-conspirators. That does not make them
3 representatives of each other. That does not mean that if one
4 of them calls their own client they violated the no contact
5 rule.

6 Dr. Stieldorf is a plaintiff's attorney, is he not?

7 MR. FAGAN: Dr. Stieldorf.

8 THE COURT: I will hear from Mr. Bishop.

9 MR. BISHOP: Yes, your Honor.

10 I have the first and last pages of the plaintiff's
11 complaint in the Middle District of Florida case. The first
12 page just begins to identify the caption and the last page
13 includes a list of the lawyers which the plaintiffs put on the
14 court files, and the last name listed is Dr. Johannes
15 Stieldorf.

16 THE COURT: He is a plaintiff's lawyer.

17 MR. LOWY: Your Honor, he is not.

18 THE COURT: He is a plaintiff's lawyer. Whether he
19 has been cooperating with defendants in effort to settle is up
20 to him. Lawyers do that all the time.

21 MR. LOWY: Your Honor, we amended the complaint on
22 September --

23 THE COURT: That doesn't matter. At the time that the
24 original complaint was filed he was represented to be a
25 plaintiff's lawyer.